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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,326	01/17/2004	John Wadsworth	0175095	8324

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Kenneth A. Nelson  
Bryan Cave LLP  
Suite 2200  
Two North Central Avenue  
Phoenix, AZ 85004-4406

EXAMINER
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MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/759,326

Applicant(s)

PAFF ET AL.

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12-15,17-21, 23-27 and 29 is/are rejected.
- 7) ☒ Claim(s) 3,11,16,22 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

This is the second office action for U.S. Application 10/759,326 for a Holding Device for Holding a Portable Object, and Method of Manufacturing Same filed by John Wadsworth on January 17, 2004. Claims 1-29 are pending.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-10, 15, 17, 18-21, 26, 27, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,788,202 to Richter. Richter discloses a support platform (between 15 and 16) with a first arm (or lever...2) and a second arm (or lever...3) coupled to the support platform. There is a biasing member (spring 27 or 28) located between the first and second arms and a locking mechanism (6) capable of maintaining the first arm and the second arm in any one of a plurality of discrete positions with respect to each other. There is a release button (4) adjacent to the support platform that is capable of releasing the locking mechanism and the biasing member is capable of urging at least a portion of the first arm and at least a portion of the second arm toward each other. There is a first grip coupled to the first arm and a second grip coupled to the second arm (see fig. 3... the inside of the vertical portion of each arm that appears to be a pad or cushioning surface). The support platform has an upper surface and a lower surface substantially opposite the upper surface and the release button is located at the upper surface of the support platform and protrudes

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from the platform. The lower surface can be coupled to a mounting mechanism and the locking mechanism comprises a ratchet (6) integral with one of the first and second arms, and a pawl (5) capable of engaging the ratchet. The ratchet has a plurality of teeth and indentations, and the pawl is capable of engaging at least one of the plurality of indentations, holding the first arm and second arm in a fixed position with respect to each other. There are also first and second handles (outside of 15 and 16) coupled to first and second portions of the first and second arms/levers, respectively.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter in view of U.S. Patent 6,183,105 B1 to Parker. Richter does not disclose a pad over the release button. Parker discloses a padding (132) over a button (32) to provide a soft contact surface. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a pad on the button taught by Richter, as taught by Parker, for the purpose of providing a soft contact surface for a user.

Claims 13, 14, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter in view of U.S. Patent 5,836,563 to Hsin-Yung. Richter does not specifically disclose first and second grips with a flexible thermoplastic elastomer. Hsin-Yung discloses a holding device with a support platform and first and second arms

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that have flexible padding (34 and 111) on vertical portions of the arms for protecting an object during clamping. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided soft padding on the vertical portions of the arms taught by Richter, as taught by Hsin-Yung, for the purpose of protecting an object during clamping. Richter in view of Hsin-Yung does not disclose the holder as being made of plastic or the padding as being made of thermoplastic elastomer.

However, portable phone holders made of plastics and pads made of thermoplastic elastomer are both well known in the art, and it would have been obvious to one of ordinary skill in the art at the time of the present invention to have made the holder of plastic and the pads of thermoplastic elastomer, as a matter of engineering preference.

#### ***Allowable Subject Matter***

Claims 3, 11, 16, 22, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose a holding device with a support platform; first and second arms coupled to the platform, wherein the first and second arms have first and second axis, respectively, that are perpendicular to the support platform and whereby the arms are capable of rotating about the axis; a biasing member located between the arms wherein the biasing member is capable of urging at least a portion of the first arm and at least a portion of the second arm towards each other; a locking mechanism capable of maintaining the

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arms in one of a plurality of positions with respect to each other; and a release button adjacent to the support platform, that is capable of releasing the locking mechanism.

The prior art also fails to disclose a holding device with a support platform; first and second arms coupled to the platform, wherein the first and second arms have a first and second plurality of teeth, respectively, and wherein the first plurality of teeth intersects with the second plurality of teeth such that a movement of one of the first and second arms causes a movement in the other of the first and second arms; a biasing member located between the arms wherein the biasing member is capable of urging at least a portion of the first arm and at least a portion of the second arm towards each other; a locking mechanism capable of maintaining the arms in one of a plurality of positions with respect to each other; a release button adjacent to the support platform, that is capable of releasing the locking mechanism.

### ***Response to Arguments***

Applicant's arguments filed July 26, 2005 have been fully considered but they are not persuasive. Applicant argues that Richter fails to disclose a biasing member that is capable of urging at least a portion of the first arm and at least a portion of a second arm toward each other. While it is recognized that the coil springs taught by Richter force the plate outwards, the coil springs are also *capable* of urging the arms toward each other. Any extension of the springs would result in the springs resuming their original shape and thus urging the arms back towards each other.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone

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number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

*Shm*

Steven M. Marsh

October 12, 2005

  
**RAMON O. RAMIREZ**  
**PRIMARY EXAMINER**